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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/071,902

02/08/2002

Christopher B. Hewett

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04/27/2007

BUCHANAN, INGERSOLL & ROONEY PC

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EXAMINER

BUTLER, MICHAEL E

ART UNIT

PAPER NUMBER

3653

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
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3 MONTHS

04/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/071,902

Applicant(s)

HEWETT, CHRISTOPHER B.

Examiner

Michael Butler

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 17-46 is/are pending in the application.
- 4a) Of the above claim(s) 1, 17-36 and 43-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 37-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/8/2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>09052003/03252004; #2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the hanging of the dispenser in a shower must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Election/Restriction

2. Applicant's election of invention II without traverse on 1/12/2007 of the restriction requirement mailed 10/12/2006 of the restriction requirement in Paper No. 5 is acknowledged and made final.

3. Claims 43-45 and 46 respectively separately submitted and separated in the image file read on non-elected invention 1. Claims 1 and 17-36 and 43-46 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim(s) 38-42 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhinegold 3270938 in view of Yarung et al. 53375928 wherein the Rhinegold discloses:

(Re: cl 37) A method of providing tissues in a shower stall comprising the steps of:
A) providing a body forming a tissue dispenser having a tissue dispenser section containing tissues to be dispensed and a disposal section for receiving used tissues, the tissue dispenser section being separated from the tissue disposal section by a wall and having a tissue dispensing orifice, the tissue disposal section having a tissue disposing orifice, a portion of the body defining the tissue disposal section being expandable from a collapsed state to enlarge the tissue disposal section (c 2 L 64-c3 L 20),

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C) expanding the tissue disposal section to provide space for used tissues (c2 L 46–c3 L 19);

D) removing tissues through the tissue dispensing orifice; and

E) inserting used tissues into the tissue disposal section through the tissue disposing orifice (c1 L 19-43)

(Re: cl 38) wherein the portion of the body defining the tissue disposal section includes a pleat extending completely around the periphery of the body; step C comprising expanding the pleat (c2 L 46–c3 L 19)

(Re: cl 39) wherein the portion of the body defining the tissue disposal section includes a plurality of the pleats arranged in accordion fashion, each pleat extending completely around the periphery of the body (34a);

step C comprising periodically expanding the pleats as the tissue disposal section becomes full of used tissues (c2 L 46–c3 L 19)

(Re: cl 40) wherein the expanding of the tissue disposal section occurs in a vertical direction (c2 L 46–c3 L 19).

The Yarung et al. discloses any elements not inherently taught by the former including:

B) mounting the body at the shower stall above floor level(c1 L 9-34);

(Re: cl 41) (41) wherein step B comprises suspending an upper portion of the body by an elongated element (c2 L 38-45)

(Re: cl 42)(37) wherein step B comprises suspending an upper portion of the body by an elongated element (c2 L 38-45).

It would have been obvious for Rhinegold to suspend the dispenser in a shower using an elongated element to give shower users access to dry-protected-cleaning tissues and wipes for localized cleaning and to give shower cleaners a cleaning tool in the shower suspended above the wet floor or tub as taught by Yarung et al. and come up with the instant invention.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (571) 272-6937.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey, can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael E. Butler

Examiner